

**Amherst Planning Board
Zoning Subcommittee
Meeting Minutes
July 20, 2011**

Members present: Jonathan O’Keeffe, Richard Roznoy, Bruce Carson
Members absent: Rob Crowner
Staff present: Jonathan Tucker, Christine Brestrup
Others present: Sarah la Cour, Patricia Holland, others

The meeting convened in the Town Room of Town Hall at 5:15PM

Village Center Projects - There was a discussion about the ongoing consultant’s plans for North Amherst and Atkins Corners, with maps distributed depicting general circulation in both areas, and an aerial photo of the roundabouts under construction at Atkins Corners.

Public meetings have been scheduled for the Cecil Group to present its conceptual plans and to obtain public input: Monday, July 25 at 7PM for North Amherst, Tuesday, July 26 at 7PM for Atkins Corners, both meetings to be held at the Bangs Center.

Zoning Amendments – Conversion of the Zoning Map to digital GIS: Mr. O’Keeffe asked if there will be a paper version of the new map, and Mr. Tucker said there will be. Mr. O’Keeffe noted that the language of the proposed warrant article indicated that boundaries are “identical” on the new map as they are shown on the old, but they are sometimes not in the same locations on a property. Mr. Tucker said that the boundaries on the GIS layer would much more accurately reflect the real location of zoning district boundaries tied to natural resource boundaries or topographic elevations—the locations of these boundaries on the existing paper map were deceptive because of the inaccuracy of the base maps. He proposed that the language be changed to “identical in function and effect.”

Mr. O’Keeffe said that Town Meeting members will want to see examples of what’s wrong with the existing mapping and how the new mapping will address those issues. Ms. Brestrup said that a presentation of the new map and the process by which it is created could be made to the Zoning Subcommittee on September 7, by GIS Coordinator Michael Olkin. She wanted to know if he should present only to the ZSC that evening, or whether he should present to the Planning Board, too. Mr. O’Keeffe suggested that the initial presentation be made to the ZSC, with a public hearing at the Planning Board scheduled for a later date. Mr. Tucker pointed out that Mr. Olkin might not be needed to present the map at a public hearing, but Ms. Brestrup pointed out that Mr. Olkin knows the particulars.

Development Modification: Mr. Tucker discussed the Performance Standards developed by the town of Mansfield, CT, noting that such standards establish a baseline, and that going above and beyond such standards might involve bonuses, or disincentives. Mr. Carson said that he found the Density Bonuses document of Brewster, MA particularly clear and succinct, and urged that

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whatever regulation Amherst creates for Development Modification be as easy to understand, taking into account that Brewster is a much smaller community.

Mr. Tucker said that the zoning for Williston, Vermont is closest to Amherst among the towns whose development standards we are reviewing. Williston is a suburb of Burlington, and is a college town. Its zoning regulations have more sections, but less numerical complexity than those of Amherst. Williston, however, is seeking to limit development because of strong limitations on its sewer system. Amherst is not trying to limit development, but direct and control it.

Mr. Roznoy noted that if Mansfield's regulations are to be used as a guide for Amherst, they seem complex. Mr. Tucker said that Amherst could have both basic Performance Standards and Development Modification.

Mr. O'Keeffe wondered if there is a risk of raising the bar with new performance standards, making affordable housing more difficult. Mr. Roznoy asked if zoning bylaws would need to be changed if we adopt Performance Standards. Mr. Tucker said that Performance Standards would be incorporated into the zoning and, as a baseline, would raise the bar for everything,

Mr. Roznoy suggested that we go back to the Development Modification amendment most recently generated and focus on simplifying it. Mr. Roznoy had to leave the meeting at 5:45 PM.

Continuing the discussion about Performance Standards and Development Modification, Mr. O'Keeffe said that he liked the idea of minimum standards, which could simplify the Site Plan Review process. Mr. Tucker said that there could be two steps, starting with basic Performance Standards which all applications would have to meet, and, where a Site Plan review approval or Special Permit was required, further requirements could be added by a permit-granting body during the permit review process.

Ms. Brestrup noted that the Zoning Board of Appeals has tried to simplify and eliminate duplication in its required findings.

There was discussion about a new proposed Nuisance Property amendment to the General By-Laws: Mr. Tucker explained that the proposed amendment could deal with how properties are managed and kept. The Town would impose enforcement on properties that aren't maintained, that involve questions of health and safety. This amendment would be adopted before a more comprehensive rental registration system would take effect.

Mr. O'Keeffe asked what parties developed the proposed amendment? Mr. Tucker said that the idea for the regulation had been developed by the staff's Housing Task Force, which included the Health Dept, Police, Fire and Building Inspector. He noted that this is a first draft.

Mr. O'Keeffe noted that the part "i" of the document discusses the keeping of commercial or farm equipment, which don't relate to health and safety. Mr. Tucker explained that relates to abandoned vehicles. The amendment seeks to get at derelict conditions.

Mr. O’Keeffe noted however, that the language does not say broken down, leaking oil vehicles. What about well-maintained vehicles? Mr. Tucker noted that the regulation spoke to vehicle stored on residential properties and that there was an existing limit on accessory commercial vehicles associated with residential properties.

Mr. Roznoy returned at 6PM.

In continuing discussion of the proposed Nuisance Property Amendment, Mr. O’Keeffe said that “interested parties” seemed to be a complicated definition. Mr. Tucker said that definition is intended to get at who was to be notified if there was to be a public hearing.

Mr. O’Keeffe asked how a criminal complaint would work under enforcement. Mr. Tucker said that a standard path for enforcement is through the courts, but that the Town tries to avoid going to court, instead preferring to use non-criminal disposition—ticketing and fines. Both existing by-laws and the proposed language can involve the use of property liens if Town has to perform a service such as snow shoveling or removal of trash from property which property owners have neglected to do. Property owners are billed for these services.

Sarah LaCour, a member of the public attending the meeting, said that the proposed amendment could start down a slippery slope, and asked if, for example, there be criminal charges if someone kept a rusting boat in his yard?

Mr. O’Keeffe agreed, that the definitions needed to be written carefully.

Mr. Roznoy supported that, adding that the terms are subjective even when attempts have been made to define them. If terms are too broad they can be challenged. Behavior should be brought in, for example, noise, civil disturbances, number of police complaints.

Mr. O’Keeffe noted that the noise bylaw we have includes the number of citations. Mr. Tucker added that there is a fine of \$300 dollars for each violation.

Mr. Roznoy suggested that the noise bylaws be incorporated into the Nuisance Property Amendment. Mr. Tucker said that these are significantly different, that there were existing regulations addressing behavior and that, in seeking to create a consistent environment of regulations for housing, this amendment would fill a gap.

Ms. Brestrup asked if Springfield did not have something like this—she said she would check. She also asked how this amendment would interact with the building code.

Mr. Tucker said that the building code is more about new construction, or circumstances where a building has to be brought up to code. The proposed amendment deals more with how properties are maintained and managed.

Mr. O’Keeffe said that we need to be careful to distinguish between safety and aesthetics – blight is proposed to be defined to suggest a negative impact on property values.

Mr. Roznoy said that the amendment should be consistent with the goals of zoning. He felt that if the property is undermining the appearance of a neighborhood, the Town has an interest in regulating that.

Mr. Tucker said that health and safety always come first in enforcement. Situations that represent hazards based on poor management of properties would be the priority.

Mr. Roznoy said that public health and safety always trump everything else, including zoning. The ZSC handles planning and zoning, not health and safety. We don’t have jurisdiction over health and safety. If a property becomes detrimental to a general zone, it can be considered a nuisance property. Mr. Tucker indicated that this is a proposed amendment to the General By-Laws, not the Zoning Bylaw, and was being shown to the Subcommittee as a courtesy and a matter of interest, since it addressed issues of housing that the Subcommittee was seeking to address through other zoning amendments. He said he could provide the Subcommittee with information demonstrating the context of other existing regulation within which this proposal fit.

Mr. O’Keeffe said that zoning allows four unrelated people to a house, but doesn’t cover sofas on porches, pools of water, etc.

Ms. Brestrup said that such matters could be addressed in the General By-Laws so that non-conforming properties would not be grandfathered as they would be if this as a zoning regulation.

Mr. Roznoy said the amendment should reference compliance with zoning, as well.

Mr. Tucker said that Town Counsel will review the wording in the proposed amendment early on, to avoid language that is too vague.

Next meetings were set for August 3 and 17, and September 7.

Meeting adjourned at 6:45 PM.